

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3089 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMESHKUMAR CHINUBHAI MANDALI

Versus

STATE OF GUJARAT

Appearance:

MR JD AJMERA for Petitioner

None present for Respondents No.1,2, 3

MR VC DESAI for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/02/98

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner, a Teacher in the respondent No.4-school, filed this special civil application before this Court and prayer has been made for quashing and setting aside the termination notice dated 20th December, 1985 and further prayer has been made for his

reinstatement in services with continuity of service and with full backwages.

3. This petition has come up for admission before this Court on 19th June, 1986 on which date notice was issued to the respondents and interim relief in terms of para-12(iii) was granted. Para-12(iii) reads as under:

pending admission, hearing and final disposal of this petition, this Hon'ble Court may be pleased to issue an ad-interim injunction restraining the respondent No.4 school management or its officer or subordinates from in any manner terminating the petitioner's service in pursuance of notice dated 20-12-1985;

4. So the respondent No.4 was restrained by this Court from terminating the services of the petitioner pursuant to the notice dated 20th December, 1985. That interim relief was confirmed by this Court later on 8th July, 1986.

5. The services of the petitioner were sought to be terminated on the ground of closure of the classes in the school. However, the learned counsel for the respondent No.4 fairly submitted the prayer made by the respondent No.4 for closing of some of the classes has not been accepted by the respondent-State Government so far. The learned counsel for the respondent No.4 further admits that unless the respondent-Government sanctions the closure of classes in the school, the classes cannot be closed. The learned counsel for the respondent No.4 further admits that the respondent-State is providing the grant in aid to the respondent-school for the services of the petitioner for all these years.

6. In view of the fact that the respondent-State has not approved the action of the respondent No.4-school, to close the classes, the notice which has been given to the petitioner for terminating his services on this ground is wholly arbitrary and it cannot be allowed to stand.

7. In the result, this special civil application succeeds and the same is allowed. The notice, terminating the services of the petitioner dated 20th December, 1985 of the respondent No.4 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

zgs/-